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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,718	10/03/2003	Stacey M. Gage	MWS-031RCE	9872

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EXAMINER

OCHOA, JUAN CARLOS

ART UNIT	PAPER NUMBER
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2123

MAIL DATE	DELIVERY MODE
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10/24/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/678,718	Applicant(s) GAGE, STACEY M.	
	Examiner JUAN C. OCHOA	Art Unit 2123	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 September 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1,3-5,7-11,13,15-17 and 19-96.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Paul L Rodriguez/
Supervisory Patent Examiner, Art Unit 2123

Continuation of 11. does NOT place the application in condition for allowance because: As to claims 4, 38, 39-41, 43-53, 54-59, and 80-86, Applicant argues, (see pages 15, 16, page 18, 4th-last paragraphs, page 19, 1st paragraph, page 20, 1st-3rd paragraphs, and page 23, 2nd-4th paragraphs), that AeroSim fails to teach "a discrete wind turbulence model". The Examiner reiterates that Applicant did not elaborate "discrete" in the Application description. As pointed out in the previous rejection, (see Claim Interpretation), "In the absence of an elaboration of 'discrete' in the Application description, the claims reciting 'a discrete wind turbulence model' were interpreted according to this dictionary definition (American Heritage® Dictionary of the English Language): Mathematics Defined for a finite or countable set of values; not continuous". There is no difference between the dictionary's definition of "discrete" (not continuous) and AeroSim's 3x1 vector, which is not continuous.

Applicant argues, (see page 15, next to last paragraph), that "the Examiner ignores the remainder of the phrase discrete wind turbulence model. In particular, it is the model that is discrete. The Examiner argues that, because the vector containing the input and output of the turbulence model has discrete dimensions of 3x1, the model itself is a discrete wind turbulence model (Office Action at page 5). This definition of a discrete wind turbulence model is not accurate. The size of the input and output vector is irrelevant to the question of whether the wind turbulence model is discrete or continuous." Examiner notes that "if input, internals, and output of a model are discrete; then the model IS discrete".

As to independent claims 1 and 13, Applicant argues, (see page 20, 4th-last paragraphs, pages 21, 22, 24, 25, 26, and page 27, 1st-3rd paragraphs), that AeroSim fails to teach "switching the first block to represent a second component model by selecting the second component model in the user interface without replacing the first block with a second block representing the second component model". Examiner does not see these features expressed in the claims. Examiner is not allowed to bring limitations set forth in the description into the claims. Although a claim should be interpreted in light of the specification disclosure, it is generally considered improper to read limitations contained in the specification into the claims. See *In re Prater*, 415 F.2d 1393, 162 USPQ 541 (CCPA 1969) and *In re Winkhaus*, 527 F.2d 637, 188 USPQ 129 (CCPA 1975), which discuss the premise that one cannot rely on the specification to impart limitations to the claim that are not recited in the claim.

Applicant arguments are more specific than the claims language and are therefore not persuasive.

The Examiner does not read into the claims neither limitations contained in the specification, external references, nor argued limitations. The Examiner's position applies to express limitations and especially to implied limitations. Once again, although a claim should be interpreted in light of the specification disclosure, it is improper to read limitations into the claims.

As to claims 5, 60-72 and 87-96; Applicant argues, (see page 17, 2nd-last paragraphs, page 18, 1st-3rd paragraphs, page 19, 2nd-last paragraphs, page 23, last paragraph, page 24, 1st-2nd paragraphs), that AeroSim fails to teach "wherein the component models belong to a category of equations of motion models that include at least one simple variable mass model and at least one custom variable mass model". As pointed out in the previous rejection, Examiner interpreted "simple variable mass" as "The variable mass includes at least one of simple variable mass in which mass changes via mass rate", since AeroSim's model incorporates mass fuel flow out of and/or into the tank, i.e. mass rate changes; and "custom variable mass" as "users may specify how the mass changes" (see specification's page 4, lines 8-10). This means: equations of motion models that include at least one ==>of the just outlined Examiner interpretations<===; since claims read: equations of motion models that include at least one ==>simple variable mass model and at least one custom variable mass model<===, Applicant argues, (see page 17, last paragraph to page 18, 1st paragraph), that "The Examiner argues that AeroSim discloses a model for equations of motion with custom variable mass at page 177 (Office Action at page 7). However, the passage cited by the Examiner refers to the fuel tank model. The fuel tank model integrates the mass fuel flow to obtain the fuel tank inertia parameters at each time step (AeroSim at page 177). The cited example is not an equation of motion, but rather an aircraft dynamic block. Equations of motion are equations that describe the motion of a system as a function of time. The cited example describes the mass and inertia of the fuel tank as a function of time. Equations of motion in AeroSim are described in §4.6. The cited example is in §4.14 of AeroSim, which relates to aircraft dynamic blocks". Claims and arguments are disconnected from each other; Examiner considers arguments confusing.

Applicant argues, (see pages 27-30), that "The passage cited by the Examiner indicates that the new function allows a user to "set up non-standard conditions." Non-standard conditions applied to a standard day atmosphere model are not the same as utilizing a non-standard day atmosphere model, which is present in claim 25. Hiranaka clearly states that a standard atmosphere function is used'. Why not are non-standard conditions applied to a standard day atmosphere model the same as utilizing a non-standard day atmosphere model? The specification defines: "In the illustrative embodiment of the present invention, the non-standard day atmosphere includes any atmosphere other than the standard atmosphere" (see page 12, last 3 lines). Hiranaka's "new function allows a user to set up non-standard conditions", i.e. specification's "non-standard day atmosphere".

The art supports the rejection of the claims and the rejection is maintained.